

THE LAW OFFICES OF  
MICHAEL R. GARDNER, P.C.

ATTORNEYS AT LAW  
1150 CONNECTICUT AVENUE, N.W.  
SUITE 710  
WASHINGTON, D.C. 20036  
(202) 785-2828  
FAX (202) 785-1504

August 23, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: CC Docket No. 92-297

Dear Mr. Caton:

On behalf of CellularVision, enclosed please find an original and five (5) copies of an Opposition to a Motion For Extension of Time For Filing Comments filed by the Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association in the above-referenced proceeding on August 16, 1995.

Please direct any questions regarding this matter to the undersigned.

Sincerely,



Michael R. Gardner  
Counsel for CellularVision

Enclosures

cc Attached Service List

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## Suite 12 Group Petition for Pioneer's Preference

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CellularVision<sup>TMSM</sup>, by its attorneys, hereby files an Opposition in response to a Motion for Extension of Time for Filing Comments ("Motion") filed on August 16, 1995 by the Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association ("TIA"). TIA has requested a ten-day extension, to September 7, 1995, for the filing of comments in response to the Third Notice of Proposed Rulemaking and Supplemental Tentative Decision ("Third NPRM"), FCC 95-287 (released July 28, 1995). TIA argues that since August is a summer vacation period, the additional time is necessary to prepare its comments. TIA has not demonstrated good cause for an extension of time, and its Motion should be denied.

CellularVision<sup>1</sup> applauds the Commission's commitment to the prompt nationwide deployment of LMDS in the 28 GHz band through spectrum auctions reflected in the Third NPRM. The protracted regulatory process culminating in the Third NPRM began almost ten years ago, with the Commission's award of an experimental license in the 28 GHz band to CellularVision's predecessor-in-interest. See Third NPRM, para. 7. In 1991, the Commission awarded CellularVision a commercial license in the 27.5-28.5 GHz band to provide an LMDS video service to consumers throughout the New York PMSA. See Hye Crest Order. In 1993, the Commission commenced the instant rulemaking proceeding proposing to license LMDS in the 28 GHz band nationwide. See First NPRM. In 1994, the Commission conducted a Negotiated Rulemaking in which industry members participated in an intense 60-day process to develop rules for co-frequency sharing of the 28 GHz band between LMDS and satellite services. Finally, throughout the first half of 1995, interested parties have vigorously advocated their views of how the Commission should resolve this proceeding, and the Commission has worked diligently to consider those positions in developing its proposals set forth in the Third NPRM.

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<sup>1</sup> References to "CellularVision" herein include the following related companies which are majority owned and controlled by common principals: Suite 12 Group, whom the Commission has found to be the innovator of Local Multipoint Distribution Service ("LMDS") in the 28 GHz band, and to whom the Commission has twice tentatively awarded a pioneer's preference (see Notice of Proposed Rulemaking, Order, Tentative Decision and Order on Reconsideration ("First NPRM"), 8 FCC Rcd 557 (1993); Third NPRM); CellularVision Technology and Telecommunications, Inc., which holds the patent for Suite 12's 28 GHz LMDS technology; and CellularVision of New York, L.P., which operates a commercial LMDS video service as an alternative to cable television in the New York Primary Metropolitan Statistical Area ("PMSA") in the 27.5-28.5 GHz band pursuant to a commercial license granted by the Commission in 1991. See Hye Crest Management, Inc. ("Hye Crest Order"), 6 FCC Rcd 332 (1991).

Thus, throughout this contentious regulatory process spanning several years, interested parties, including TIA, have participated in debating the issues under consideration. The fact that parties involved in this proceeding have had to prepare their comments in response to the Third NPRM during the summer vacation months has affected all parties, large and small, as well as the Commission staff. That, however, is not a sufficient basis for granting an extension of time that will only further delay the resolution of this proceeding.

The public interest benefits to be realized by the nationwide deployment of LMDS have been well-documented in this proceeding, and recognized by the Commission. See Third NPRM, paras. 27-28. CellularVision is eager to see this protracted rulemaking proceeding resolved so that the licensing and deployment of LMDS nationwide finally can become a reality. Any further delay simply is unwarranted and will not serve the public interest. Accordingly, based on the foregoing, CellularVision respectfully requests that the Commission deny TIA's Motion.

Respectfully submitted,

CellularVision

By: 

Michael R. Gardner  
Charles R. Milkis

THE LAW OFFICES OF  
MICHAEL R. GARDNER, P.C.  
1150 Connecticut Ave., NW, Suite 710  
Washington, DC 20036  
(202) 785-2828

August 23, 1995

Its Attorneys

Certificate of Service

I, Ryan J. McCumber, hereby certify that the foregoing "Opposition to Motion for Extension of Time for Filing Comments" was delivered by hand on August 23, 1995 to the following:

Blair Levin  
Chief of Staff  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Ruth Milkman  
Senior Legal Advisor to  
Chairman Reed Hundt  
Federal Communications Commission  
1919 M Street, NW, Room 814  
Washington, DC 20554

Lauren J. Belvin  
Senior Legal Advisor to Commissioner  
James Quello  
Federal Communications Commission  
1919 M Street, NW, Room 814  
Washington, DC 20554

Rudolfo M. Baca  
Legal Advisor to Commissioner  
James Quello  
Federal Communications Commission  
1919 M Street, NW, Room 802  
Washington, D.C. 20554

Lisa B. Smith  
Senior Legal Advisor to Commissioner  
Andrew Barrett  
Federal Communications Commission  
1919 M Street, NW, Room 826  
Washington, D.C. 20554

Mary McManus  
Legal Advisor to Commissioner Ness  
Federal Communications Commission  
1919 M Street, NW, Room 832  
Washington, DC 20554

Jane Mago  
Senior Legal Advisor to Commissioner  
Rachelle Chong  
Federal Communications Commission  
1919 M Street, NW, Room 844  
Washington, DC 20554

Jill Lockett  
Special Advisor to Commissioner  
Rachelle Chong  
Federal Communications Commission  
1919 M Street, NW, Room 844  
Washington, D.C. 20554

Donald L. Gips  
Deputy Chief  
Office of Plans and Policy  
Federal Communications Commission  
1919 M Street, NW, Room 822  
Washington, DC 20554

Regina Keeney  
Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554

Laurence Atlas  
Associate Bureau Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554

Robert James  
Ass't for Microwave Services  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 8010  
Washington, DC 20554

Susan Magnotti  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 8010  
Washington, DC 20554

Scott Harris  
Chief, International Bureau  
Federal Communications Commission  
2000 M Street, NW, Room 658  
Washington, DC 20554

Thomas Tycz  
Division Chief, Satellite  
and Radio Communications Division  
International Bureau  
Federal Communications Commission  
2000 M Street, NW, Room 800  
Washington, DC 20554

Donna Bethea  
Satellite & Radiocommunications  
Division, International Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 515  
Washington, D.C. 20554

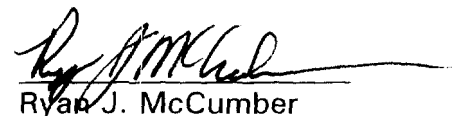
\* George M. Kizer  
Denis Coulillard  
Eric Schimmel  
Fixed Point-to-Point Communications  
Section  
Network Equipment Division  
Telecommunications Industry  
Association  
2500 Wilson Blvd, Suite 300  
Arlington, VA 22201

\* Leonard R. Raish, Esq.  
Fletcher, Heald & Hildreth  
1300 North 17th Street  
11th Floor  
Rosslyn, VA 22201

\* David Struba  
Office of Space Communications  
NASA Headquarters  
Washington, D.C. 20546

\* Tom W. Davidson, P.C.  
Jennifer A. Manner, Esq.  
Akin, Gump, Strauss, Hauer  
& Feld, L.L.P.  
1333 New Hampshire Ave., NW,  
Suite 400  
Washington, DC 20036

\* John P. Janka, Esq.  
Latham & Watkins  
1001 Pennsylvania Ave., NW  
Suite 1300  
Washington, DC 20004



Ryan J. McCumber

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